

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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Richard Merli and Marguerite Merli,  
:

Plaintiffs,  
:

-against-  
:

Cradle of Hope Adoption Center Inc., et al.,  
:

Defendants.  
:  
X  
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04 CV 2712 (ARR)

NOT FOR  
PUBLICATION

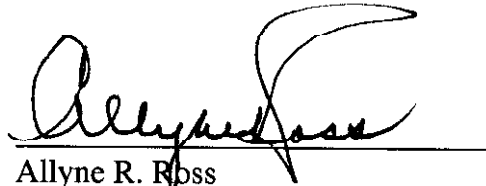
OPINION AND ORDER

ROSS, United States District Judge:

The court held a pre-motion conference in the above-captioned matter on January 10, 2005. By letter dated April 29, 2005, defendant Cradle of Hope requested the court to issue an order compelling the plaintiffs to file an amended complaint including only those claims which they intend to pursue. The court has reviewed the minutes of the January 10, 2005 proceedings and determined that plaintiffs' counsel explicitly consented to withdraw, either by letter or amended complaint, all causes of action except the wrongful adoption or fraudulent inducement claim and the contract claim, both on behalf of the parents. Plaintiffs' counsel conceded that all of the other claims brought on behalf of the parents would be time-barred and, acknowledging that there is no statute of limitations issue with respect to any claims brought on behalf of the children, agreed to hold all claims on behalf of the children in abeyance. Plaintiffs have not, to date, filed with the court either a letter or an amended complaint officially withdrawing the following claims: (1) the first cause of action on behalf of Elena Merli for infliction of emotional distress; (2) the second cause of action on behalf of

Svetlana Merli for intentional infliction of emotional distress; (3) the third cause of action on behalf of Elena Merli for negligence; (4) the fourth cause of action on behalf of Svetlana Merli for negligence; (5) the fifth cause of action on behalf of the adoptive parents and the children for negligent hiring and retention; (6) the sixth cause of action on behalf of all parents for breach of fiduciary duty; (7) the seventh cause of action insofar as it is on behalf of the children; and (8) the tenth cause of action on behalf of the parents for violations of New York's General Business Law. The court reiterates that plaintiffs' counsel consented to pursue two causes of action solely on behalf of the parents: (a) the seventh cause of action for wrongful adoption, which is duplicated by the ninth cause of action for fraud in the inducement; and (b) the eighth cause of action for breach of contract. The court hereby directs plaintiffs to submit a letter withdrawing the above-stated claims or to file an amended complaint reflecting the substance of the January 10, 2005 proceedings, memorialized in this opinion, within two weeks of the date of this order.

SO ORDERED.



Allyne R. Ross  
United States District Judge

Dated: May 16, 2005  
Brooklyn, New York

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